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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application Number	10/009,581
		Filing Date	April 30, 2002
		First Named Inventor	Civan et al.
		Group Art Unit	1614
		Examiner Name	Donna A. Jagoe
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ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Replacement Drawing Sheets <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i> - postcard
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Montgomery, McCracken, Walker & Rhoads, LLP	
Signature	<i>Evelyn H. McConathy</i>	
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Date	July 16, 2008	
CERTIFICATE OF MAILING UNDER 37 CFR 1.8		
I hereby certify that this paper, along with any documents referred to as being enclosed therewith, is being deposited with the United States Postal Service in an envelope addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on date shown below:		
Typed or printed name	Tara M. Fromm	
Signature	<i>Tara M. Fromm</i>	Date: July 16, 2008



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Civan *et al.*

Art Unit: 1614

Serial No.: 10/009,581

Examiner: Donna A. Jagoe

Filed: April 30, 2002

Confirmation No. 1751

For: Methods of Controlling Intraocular Pressure

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BRIEF ON APPEAL UNDER 37 C.F.R. § 1.191

Sir:

This supplemental Status of the Claims of the Appeal Brief is submitted in Response to the Notice of Non-Compliant Appeal Brief. Applicant hereby submits a revised Status of the Claims section, stating which claims are being appealed, to comply with 37 C.F.R. § 41.37(c). No fee is believed to be due in this filing. However, if a fee is due, the Office is authorized to withdraw the necessary amount from Deposit Account 50-2424.

Respectfully submitted,

Dated: July 16, 2008

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III. Status of the Claims

Claims Being Appealed:

Applicant appeals the rejection of claims 94-110, 112, 113, 115 and 116 in the outstanding Office Action dated January 11, 2008. Claims 1-93, 111 and 114 have been previously cancelled.

Communications Affecting Claims:

Applicant appeals the rejection of claims 94 – 110, 112, 113, 115 and 116 in the outstanding Office Action dated January 11, 2008.

As originally filed on 4/30/2002, the application was filed containing claims 1 – 37 as the national stage entry of PCT/US00/12551, which was filed on 5/8/2000 and claiming priority from Provisional Application No. 60/133,180, filed on 5/7/1999. Claims were amended by Preliminary amendment to conform to U.S. practice. Specifically, claims 2 – 37 were canceled and claims 38 – 93 were added, with claims 1, 56, 69 and 81 being the independent claims.

A first Office Action issued on August 1, 2003, with the Examiner rejecting claims 1 and 38 – 93. In a response on November 3, 2003, Applicants amended claims 1, 42, 43, 56, and 81, but no new claims were added.

On March 22, 2004 a Final Office Action issued rejecting claims 1 and 38 – 93. On July 22, 2004 Applicants canceled claims 56 – 67 and 69 – 91 while amending claims 1, 68, 92, and 93.

On August 11, 2005 The Examiner rejected claims 1, 38 – 55, 68, 92 and 93. An in-person Examiner Interview was conducted thereafter on October 27, 2005 with Applicant, Applicants' representative and Examiner participating. Applicants' invention was discussed as well as U.S. Patent No 5,215,991.

Following the in-person interview with the Examiner, Applicants submitted the Declaration of Dr. Mortimer Civan with an amendment on November 10, 2005. Claims 1

– 93 were cancelled by amendment, while claims 94 – 116 were added, with claims 94 and 108 being the independent claims.

On February 21, 2006 the Examiner issued an Office Action subjecting claims 94 – 116 to a restriction and/or election requirement. On March 21, 2006 Applicants elected, without traverse, to prosecute claims 94 – 107, drawn to a method of regulating intraocular pressure and further electing species. A Miscellaneous Action with SSP issued thereafter on June 14, 2006 seeking to further elect representative species encompassed by the claims. A correction to the election was filed by Applicants on July 14, 2006 to include additional agents elected for species.

On February 9, 2007 a second Miscellaneous Action with SSP issued seeking to further elect representative species encompassed by the claims following Applicants response to the restriction/election requirement. On March 7, 2007 a response to restriction requirement was filed by Applicants further electing species related to Group I encompassing claims 94 – 107.

On July 31, 2007 claims 94 – 113, 115 and 116 were rejected by the Examiner in a Final Office Action. Claim 114 was withdrawn. On October 31, 2007 Applicants responded with a request for continued examination. Claims 111 and 114 were cancelled by the response of October 31, 2008 accompanied by the RCE, and claims 94, 96, 103, 104, 107, 108, 112 were amended in the response.

On January 11, 2008 the Examiner issued an Office Action rejecting claims 94-110, 112, 113, 115 and 116 on the same grounds as the Final Action mailed July 31, 2007. On April 10, 2008 Applicants proceeded to file a Notice of Appeal for the rejection on the merits of pending claims 94 – 110, 112, 113, 115 and 116.